

**COMPLAINT INVESTIGATION SUMMARY**

<b>COMPLAINT NUMBER:</b>	<b>1654.00</b>
<b>COMPLAINT INVESTIGATOR:</b>	<b>Steve Starbuck</b>
<b>DATE OF COMPLAINT:</b>	<b>November 13, 2000</b>
<b>DATE OF REPORT:</b>	<b>December 13, 2000</b>
<b>REQUEST FOR RECONSIDERATION:</b>	<b>no</b>
<b>DATE OF CLOSURE:</b>	<b>February 5, 2001</b>

**COMPLAINT ISSUES:**

Whether the Anderson Community Schools violated:

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP), specifically:

- a. failing to provide an assistant; and
- b. failing to provide and utilize assistive technology (V-tech machine) in the classroom.

511 IAC 7-27-9(a)(11) with regard to the school's alleged failure to ensure that a student with a disability is in classes (music, gym, and art) with his/her chronological peers unless the case conference committee (CCC) determines otherwise and documents the reasons in the IEP/Case Conference Summary Report.

511 IAC 7-27-9(b) with regard to the school's alleged failure to ensure that a student with a disability is included in meals and recess with nondisabled students unless the CCC determines otherwise and documents the reasons in the IEP/Case Conference Summary Report.

During the course of the investigation, an additional issue was identified, which is:

511 IAC 7-27-7(b) with regard to the school's alleged failure to ensure the student's teacher of record monitored the implementation of the student's IEP.

**FINDINGS OF FACT:**

1. The student is eleven years old and has been determined eligible for special education due to a dual sensory impairment and a communication disorder.
2. The student's IEP and Case Conference Summary Report dated February 7, 2000, reflect the following:
  - a. Page two and three of the goals and objectives pages indicate the teacher's assistant and the interpreter will be responsible for evaluating the student's progress with regards to achieving annual goals. Page one of the annual goals and objectives pages indicates the teacher's assistant or interpreter will be responsible for evaluating the student's progress with regards to achieving annual goals; and
  - b. Page one of the IEP indicates an assistant or interpreter will accompany the student to general education classes.

3. Discussion summary notes dated October 2, 2000, lists the following information: "Problem of no mainstreaming at all - this due to no time available for [teacher's] prep and no extra person to go into reg. classes with [student]." The director reports in her response that the student's teacher never developed a schedule of when interpreters were required, and therefore, the interpreters were not hired to assist the student in participating in the general education curriculum. The director states it is not the school district's policy to assign non-certified staff (teacher's assistants) to evaluate a student's progress made toward annual goals. The director reports listing a teacher's assistant to evaluate the student's progress made toward annual goals was an oversight, and will be corrected at a future CCC meeting.
4. The student's IEP dated February 7, 2000, reflects that the student is to receive use of the CCTV (V-tech machine) three times a week for thirty minutes each time. On October 2, 2000, a CCC meeting was convened at the request of the parent to discuss whether the student was receiving adequate services for her visual impairment. At this time, it was determined by the CCC that the student would receive use of the CCTV four times a week for thirty minutes each time. The director acknowledges in her response that the student has not been receiving use of the CCTV as specified in the student's IEP dated February 7, 2000, and in the Case Conference Summary Report dated October 2, 2000.
5. The student's IEP dated February 7, 2000, indicates the student will participate in the general education curriculum in the following subjects: physical education, music, art, and library. The Discussion Summary Notes dated October 2, 2000, reflect that it would not be appropriate for the student to participate in a general education physical education class; however, the reason for this decision is not documented in the student's IEP or Case Conference Summary Report. The director acknowledges the student has not had the opportunity to participate in the general education curriculum as specified in the IEP dated February 7, 2000.
6. The student's IEP dated February 7, 2000, and Case Conference Summary Reports dated February 7, and October 2, 2000, do not contain information that would indicate the student should not participate in meals and recess with her nondisabled peers. The director acknowledges the student has not been able to participate in meals and recess with her nondisabled peers.
7. At a CCC meeting convened on November 30, 2000, agreement was reached between the parents and the school regarding the student's use of the CCTV, the student's participation in the general education curriculum, and inclusion of the student with peers at meals and recess. The parents are not requesting compensatory educational services.

#### **CONCLUSIONS:**

1. Findings of Fact #2 and #3 indicate the director acknowledges:
  - a. that the school failed to utilize a teacher's assistant to evaluate the student's progress made toward annual goals and objectives; and
  - b. that the school failed to provide the student with an assistant or an interpreter to attend general education classes.Therefore, a violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #4 reflects the school failed to provide and utilize assistive technology (CCTV) for the student in the classroom. Therefore, a violation of 511 IAC 7-27-7(a) is found.
3. Finding of Fact #5 indicates the school failed to ensure the student participated in physical education, music, art, and library classes with her chronological peers. Therefore, a violation of 511

IAC 7-27-9(a)(11) is found.

4. Finding of Fact #6 reflects the school failed to ensure the student participated in meals and recess with nondisabled students. Therefore, a violation of 511 IAC 7-27-9(b) is found.
5. Findings of Fact #2, #3, #4, #5, and #6 reflect the teacher of record failed to monitor the implementation of the student's IEP. Therefore, a violation of 511 IAC 7-27-7(b) is found.

**The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

The Anderson Community Schools shall:

1. Convene a CCC meeting no later than January 19, 2001, to determine the appropriate school personnel to monitor the student's progress made towards annual goals. Submit a copy of the student's revised IEP and Case Conference Summary Report to the Division no later than January 26, 2001.
2. Inservice all appropriate staff as to the requirements specified in 511 IAC 7-27-7(a) and (b), 511 IAC 7-27-9(a)(11), and 511 IAC 7-27-9(b). Submit documentation to the Division that the inservice training has been completed no later than January 26, 2001. The documentation should include a list or an agenda of all issues discussed, any handouts that were distributed, and a list of attendees by name and title.
3. Submit to the Division no later than January 26, 2001, an assurance statement signed by the student's teacher of service and teacher of record that ensures the student's IEP dated November 30, 2000, is implemented as written.
4. Submit to the Division no later than January 26, 2001, an assurance statement signed by the director and the teacher of record's immediate supervisor that ensures the teacher of record will monitor and ensure the student's IEPs are implemented as written.